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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

B. Goddard
Civ Pers

FILE: B-185638

DATE: February 28, 1977

**MATTER OF: Joseph L. Buelna - Permanent Change
of Station Expenses**

- DIGEST:**
1. Army delayed completion of employee's transfer from Okinawa to Fort Bliss, Texas. Employee purchased household goods and clothes while remaining at his leave address in Kalamazoo, Michigan, during this delay, as his belongings had been shipped to Texas. There is no authority in the Federal Travel Regulations (FTR) for reimbursing employee for such expenses and reimbursement for purchases are specifically prohibited in allowance for miscellaneous expenses. Moreover, since Kalamazoo was never employee's official duty station he was en route to new official duty station and newly acquired goods may not be shipped at Government expense.
 2. Employee purchased POV through overseas payment plan while in Okinawa. The POV was shipped from Wisconsin factory to El Paso where employee was to pick it up on transfer to Fort Bliss, Texas. Since his assignment at Fort Bliss was delayed by the Army and he was required to claim POV within stated time, he traveled to El Paso from his leave address in Michigan to claim POV. Employee may not be reimbursed cost of shipping POV nor his travel expense to El Paso and return since FTR only allows expenses for transporting POV when shipped to or returned from official stations outside the conterminous United States.

This decision is at the request of Mr. Joseph L. Buelna, an employee of the Department of the Army, who appeals the denial by our Claims Division in certificate of settlement dated December 3, 1975, of his claim for permanent change of station expenses.

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The record indicates that Mr. Buelna was employed as a librarian by the Department of the Army in Okinawa when he was selected on January 2, 1974, to fill a vacant position at Fort Bliss, Texas. Mr. Buelna accepted that offer and he was ordered to report to Fort Bliss on or about February 20, 1974. However, subsequent to Mr. Buelna's departure from Okinawa but prior to reporting to Fort Bliss, the position vacancy at Fort Bliss was withdrawn. Mr. Buelna remained at his leave address in Kalamazoo, Michigan, until assignment to Fort Bliss was finally effected September 1, 1974.

Incident to his transfer from Okinawa to Fort Bliss, Mr. Buelna incurred certain expenses for which reimbursement was denied. The items for which payment is claimed and for which Mr. Buelna still contends he should be reimbursed are apparently as follows.

Reimbursement is requested for the cost of new clothing and household items purchased in Kalamazoo. Mr. Buelna states that these purchases were necessary because his household effects had been sent to El Paso and because winter clothing was required for his family due to the unexpected long layover in a northern climate. Mr. Buelna also claims reimbursement for the cost of shipping to El Paso, Texas, the household goods obtained in Kalamazoo.

Mr. Buelna claims reimbursement for the cost of shipping a privately owned vehicle (POV) from an automobile factory in Wisconsin to El Paso. He also claims round-trip travel expenses from Kalamazoo to El Paso to claim the POV. He states in this regard:

"I had purchased a POV through an overseas payment plan and had it shipped to El Paso, Texas in anticipation of a position there. I was required by the automobile agency in El Paso to claim this vehicle in March or face the possibility of large charges being leveled against me and the automobile being sold. I wish to claim the cost of having the POV shipped to El Paso as well as the expenses I incurred in travelling to El Paso and back to Kalamazoo, Michigan."

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Mr. Buelna believes that since the delay in assigning him to Fort Bliss was solely the Army's fault, he should not have to bear the burden of the above costs he incurred.

An employee's entitlement to relocation expenses flows from and must be determined by the statute authorizing such expenses, in this case 5 U. S. C. §§ 5724a and 5727 (1970), and the implementing regulations, contained in the Federal Travel Regulations (FPMR 101-7) (May 1973). 55 Comp. Gen. 1251 (1976). If there is no authority in the law or regulations for reimbursement of a given expense incurred by an employee, he may not be reimbursed such expenses.

There is no authority in the Federal Travel Regulations (FTR) for the payment of the cost of clothes or household goods acquired by an employee incident to his relocation to a new official duty station despite the circumstances here present. Moreover, paragraph 2-3.1c(5) of the FTR specifically states that costs of newly acquired items are not reimbursable under the allowance for miscellaneous expenses. Accordingly, even though the Army may have improperly delayed Mr. Buelna's reassignment to Fort Bliss, there is no authority for allowing the expense for clothing and household good purchases.

With respect to the denial of the cost of transporting these newly acquired household goods from Kalamazoo to El Paso, our Claims Division relied on paragraph 2-8.2d of Part 8 of the FTR entitled "Transportation and Temporary Storage of Household Goods," which states in pertinent part that:

"* * * No property acquired by the employee en route between old and new official stations shall be eligible for transportation under this part."

Mr. Buelna argues that his stay in Kalamazoo could not be considered an en route layover since the Army had directed him to remain in Kalamazoo until his placement was resolved.

Even though Mr. Buelna was ordered to remain in Kalamazoo on leave until his placement was resolved, Kalamazoo was never designated as, nor was it in fact his official duty station. Rather, Okla. was his old official duty station and Fort Bliss was his

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new one. Accordingly, even though Mr. Buelna spent approximately 8 months in Kalamazoo, he was, in effect, en route between his old and new official duty stations under the meaning of the FTR and he may not be reimbursed for transportation costs of the household goods he acquired in Kalamazoo.

The only circumstances by which the FTR allows for the reimbursement of the cost of shipping an employee's POV are stated at paragraph 2-10.2, as follows:

"Eligibility.

"a. Official station outside the conterminous United States. Transportation of privately owned vehicles may be authorized in connection with a transfer or assignment to an official station outside the conterminous United States, including a transfer between such stations. A privately owned vehicle transported to such a station under this part may be transported to the United States when its use is no longer required at a station outside the conterminous United States under the provisions of 2-10.3b and c."

Since Mr. Buelna was not returning his POV to the United States, but rather was shipping his POV within the United States, there is no authority for reimbursing his POV transportation costs. Moreover, aside from the fact the POV was also newly acquired property and therefore could not have been shipped at Government expense, see paragraph 2-8.2d, supra, POV is specifically excluded from the definition of household goods in paragraph 2-1.4h. Nor is there authority for reimbursing Mr. Buelna's travel expenses incurred incident to traveling to El Paso from Kalamazoo and return to pick up his POV.

Our Claims Division also found discrepancies in certain payments made to Mr. Buelna for expenses incurred incident to his permanent change of station transfer as follows:

"By voucher No. 452335, paid October 24, 1974 you received payment for dependent travel as follows:

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\$ 9.00 per diem for travel from Okinawa to
Travis AFB, California

\$147.41 for cost of air fare from San Francisco
to El Paso, Texas

\$ 24.35 for reimbursable expenses (taxi, and
bus fares, tips, etc.)

\$180.76 total paid

"Payment, however, should have been
computed as follows:

\$ 39.75 per diem for your wife and child for
travel from Okinawa to El Paso
(constructive travel)

\$140.23 cost of air transportation for both
dependents from San Francisco to
El Paso

\$ 19.35 reimbursable expenses

\$200.03 total due

Therefore, you are due an additional \$19.27 for the
described travel. By voucher No. 452333 dated
October 24, 1974, you received travel payment as
follows:

\$232.50 per diem for your travel from Okinawa to
Travis AFB and for your travel and your
dependents' travel from Travis AFB to
Ft. Bliss. It appears that this amount was
paid on the basis of constructive POV travel
between those points.

\$ 70.86 mileage for constructive POV mileage
between Travis AFB and Ft. Bliss

\$160.00 miscellaneous expense allowance (\$200 less
20% income tax deduction)

\$414.00 Temporary Quarters Subsistence Expense

\$877.37 total paid

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Payment for the described travel should have been computed as follows:

\$ 21.50	per diem for actual and constructive air travel from Okinawa to Ft. Bliss
\$ 84.28	cost of air fare from San Francisco to El Paso
\$ 10.30	reimbursable expenses (taxi fares, tips)
\$160.00	miscellaneous expense allowance (\$200 less 20% tax deduction)
<u>\$389.00</u>	Maximum allowable for Temporary Quarters Subsistence Expense
\$665.08	total due

"Therefore, you were overpaid \$212.29 for this portion of your travel. The combined underpayment (\$19.02) and overpayment (\$212.29) result in a net overpayment to you in the amount of \$193.27, for which you are indebted to the United States. This matter is being reported to the Department of the Army for appropriate collection action."

With respect to voucher No. 452335, Mr. Buelna claimed taxi fares, \$10.35; non-Government meals, \$7; bus fares, \$6; and tips, \$3; as reimbursable expenses for his dependents. However, since per diem includes charges for meals, see paragraph 1-7.1b of the FTR, and Mr. Buelna has received per diem reimbursement for dependent travel, the \$7 charge for non-Government meals may not be allowed. Therefore, the reimbursable expenses were properly computed at \$19.35 by our Claims Division. With respect to the cost of Mr. Buelna's dependents' air fare from San Francisco to El Paso, we have determined that the cost of jet coach class on January 11, 1974, was \$84.28 for his wife and \$56.65 for his child and thus he should have been reimbursed \$140.93 rather than \$147.41.

The Claims Division also disputed the computation of per diem for Mr. Buelna and his family which was allowed by the Army on the basis of constructive POV travel between Travis

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AFB and Fort Bliss. Although Mr. Buelna was authorized to so travel by POV, he and his family in fact traveled from Travis to Kalamazoo, his leave address, by plane, leaving Travis at 6 a.m. and arriving at Kalamazoo at 3:30 p.m. on January 11, 1974. On September 17, 1974, Mr. Buelna and his family left Kalamazoo by plane at 2 p.m., arriving at El Paso at 5 p.m. on the same day.

In our decision B-181573, February 27, 1975, we stated that:

"The concept of 'constructive cost' does not represent an absolute entitlement payable in all events. It is, rather, an upper limit on the Government's liability. If the cost of the travel actually performed is in whole or in part less than the cost of the constructive direct route, the Government's liability is properly determined upon the lesser amount. * * *"

Accordingly, the \$232.50 reimbursement of per diem based on constructive POV use was improper and the Claims Division's computation of Mr. Buelna's per diem is correct.

Mr. Buelna was also overpaid for his temporary quarters subsistence expense. Mr. Buelna was reimbursed \$124.40 for the first 10 days of use of temporary quarters from August 22 to August 31, 1974, \$236 for the second 10 days from September 1 to September 10, 1974, and \$53.60 for 7 additional days from September 11 to September 17, 1974. However, Mr. Buelna states that he moved into permanent quarters on September 12, 1974. Paragraph 2-5.2f of the FTR states in part with respect to temporary quarters subsistence expense that "* * * The period of eligibility shall terminate when the employee or any member of his immediate family occupies permanent residence quarters* * *." Accordingly, the last 5 days of his temporary quarters subsistence expense of \$5 a day were improperly reimbursed by the Army. The Claims Division computation was, therefore, correct.

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In view of the above we sustain our Claims Division's finding that Mr. Buelna is indebted to the United States in the amount of \$193.27.

R. F. K. 1/4
Acting Comptroller General
of the United States